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**FEDERAL DEPOSIT INSURANCE CORPORATION**  
**WASHINGTON, D.C.**

**In the Matter of**

**DIRK A. THIERER, individually,  
and as an officer, director, and  
an institution-affiliated party of**

**HARTFORD-CARLISLE SAVINGS BANK  
CARLISLE, IOWA**

**(INSURED STATE NONMEMBER BANK)**

**FINDINGS OF FACT  
AND CONCLUSIONS  
OF LAW**

**FDIC-99-144e**

The Federal Deposit Insurance Corporation ("FDIC") has considered whether to issue an ORDER OF SUSPENSION FROM OFFICE ("ORDER") pursuant to section 8(e)(3) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(e)(3), in conjunction with the issuance of a NOTICE OF INTENTION TO REMOVE FROM OFFICE AND TO PROHIBIT FROM FURTHER PARTICIPATION, pursuant to section 8(e)(1) of the Act, 12 U.S.C. § 1818(e)(1), against Dirk A. Thierer ("Respondent"), individually, and in his capacity as an officer, director, and institution-affiliated party of Hartford-Carlisle Savings Bank, Carlisle, Iowa ("Bank").

Based upon information obtained from the Bank by the Regional Director of the Kansas City Regional Office of the FDIC ("Regional Director") and an ongoing examination of the Bank commenced November 22, 1999, the FDIC makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Bank is and has been, at all times relevant to the charges herein, a corporation existing and doing business under the laws of the State of Iowa, having its principal place of business at Carlisle, Iowa.
2. The Bank is and has been, at all times relevant to the charges herein, an insured State nonmember bank, subject to the Act, 12 U.S.C. §§ 1811-1831u; the Rules and Regulations of the FDIC, 12 C.F.R. Chapter III; and the laws of the State of Iowa.
3. Section 22(h) of the Federal Reserve Act, 12 U.S.C. § 375b, and Regulation O of the Board of Governors of the Federal Reserve System ("Regulation O"), 12 C.F.R. Part 215, are made applicable to the Bank by section 18(j)(2) of the Act, 12 U.S.C. § 1828(j)(2), and section 337.3(a) of the FDIC Rules and Regulations, 12 C.F.R. § 337.3(a).
4. From on or about July 1, 1996, through the present, 100 percent of the Bank's issued and outstanding stock has been owned by Wildcat, Inc., a one-bank holding company.
5. From July 1, 1996, until approximately June 4, 1999, Respondent owned, controlled, and/or had the power to vote 27.5 percent of the issued and outstanding stock of Wildcat, Inc.
6. On or about June 4, 1999, Respondent acquired an additional 15 percent of the issued and outstanding stock of Wildcat, Inc., and, thereafter, has owned, controlled, and/or had the power to vote 42.5 percent of the issued and outstanding stock of Wildcat, Inc.
7. Respondent is and has been a director of the Bank since July 1, 1996.
8. From July 1, 1996, until approximately June 4, 1999, Respondent was executive vice president and senior lending officer of the Bank with responsibility for a majority of the Bank's loan customers.

9. On or about June 4, 1999, Respondent became and has remained president of the Bank and chairman of the Bank's board of directors.

10. At all times relevant to the charges herein, Respondent has participated in major policymaking functions of the Bank and, at least since June 1999, has exercised a controlling influence over the management, policies and practices of the Bank, including extensions of credit.

11. By virtue of the allegations in paragraphs 5 through 10 above, Respondent is and has been, at all times relevant to the charges herein:

- (a) "director" of the Bank as that term is defined in section 215.2(d) of Regulation O, 12 C.F.R. § 215.2(d);
- (b) an "executive officer" of the Bank, as that term is defined in section 215.2(e) of Regulation O, 12 C.F.R. § 215.2(e); and
- (c) an "institution-affiliated party" of the Bank, as that term is defined in section 3(u) of the Act, 12 U.S.C. § 1813(u), and for purposes of section 8(e) of the Act, 12 U.S.C. § 1818(e).

12. The FDIC is the "appropriate Federal banking agency" with respect to the Bank, as defined in section 3(q) of the Act, 12 U.S.C. § 1813(q).

13. The FDIC has jurisdiction over the Bank, the Respondent and the subject matter of this proceeding.

#### **RELATED INTERESTS OF RESPONDENT**

14. At all times relevant to the charges herein, Respondent owned, controlled, and/or had the power to vote 100 percent of the issued and outstanding stock of DWT, Inc., which does

business as "Petroleum N Provisions." Accordingly, at all times relevant to the charges herein, Respondent controlled DWT, Inc., within the meaning of Regulation O.

15. DWT, Inc., is and, at all times relevant to the charges herein, has been a "related interest" of Respondent, as that term is defined in section 215.2(n) of Regulation O, 12 C.F.R. § 215.2(n).

**VIOLATIONS OF LAW, UNSAFE OR UNSOUND PRACTICES  
AND BREACHES OF FIDUCIARY DUTY BY RESPONDENT**

16. From at least December 31, 1998, through at least November 1999, Respondent made or caused the Bank to make a number of extensions of credit to himself personally, or to others, the proceeds of which were transferred to Respondent or used for his tangible economic benefit. As set forth in more detail below, Respondent made some of the extensions of credit or caused them to be made in the names of nominee borrowers. Other loans with irregular features are currently under investigation as part of an ongoing examination of the Bank. At this time, examiners have found that the integrity of the Bank's records have been compromised in that certain significant Bank records relating to some of these transactions are missing from the Bank. In addition, during the currently ongoing examination, Respondent has given examiners false, misleading and/or inaccurate information in response to inquiries regarding some of these loans.

**A. Financing the December 31, 1998, Capital Injection.**

17. In late 1998, the Bank was in need of a capital injection of \$1,000,000 to support the Bank's rapid asset growth and comply with capital guidelines of the Iowa Division of Finance.

18. On or about December 31, 1998, Respondent made or caused the Bank to make an unsecured extension of credit to Respondent (Loan # 158352003) in the amount of \$275,000, for the stated purpose of "personal expenses."

19. On or about December 31, 1998, Respondent transferred the proceeds of Loan # 158352003 to Wildcat, Inc., to partially fund the required capital injection.

20. By reason of the allegations in paragraphs 17 through 19 above, Respondent violated and/or caused the Bank to violate Regulation O in that the extension of credit:

- (a) was not made on substantially the same terms as those prevailing at the time for comparable transactions by the Bank with other persons not covered by Regulation O, in violation of section 215.4(a)(i) of Regulation O, 12 C.F.R. § 215.4(a)(i);
- (b) involved more than the normal risk of repayment and presented other unfavorable features, including the false and/or misleading statement regarding the purpose of the loan, in violation of section 215.4(a)(ii) of Regulation O, 12 C.F.R. § 215.4(a)(ii); and
- (c) exceeded \$100,000, in violation of section 215.5(c)(4) of Regulation O, 12 C.F.R. § 215.5(c)(4).

21. Respondent made or caused the Bank to make two extensions of credit to nominee borrowers, the proceeds of which were used by Respondent to repay his Loan # 158352003, as more fully alleged in paragraphs 22-24 and 26-31 below.

22. On or about January 25, 1999, Respondent made or caused the Bank to make an extension of credit in the name of [REDACTED] in the amount of \$100,000, as a business loan for the stated purpose of "working capital."

23. On or about January 25, 1999, Respondent used the proceeds of [REDACTED] Loan [REDACTED] to make a payment in the amount of \$100,000 on his Loan # 158352003.

24. The proceeds of [REDACTED] Loan # [REDACTED] were used for the tangible economic benefit of Respondent. Therefore, [REDACTED] Loan # [REDACTED] is considered made to Respondent.

25. By reason of the allegations in paragraphs 21 through 24 above, Respondent violated and/or caused the Bank to violate Regulation O in that [REDACTED] Loan # [REDACTED]

- (a) involved more than the normal risk of repayment and presented other unfavorable features, including the false or misleading statement regarding the purpose of the loan, in violation of section 215.4(a)(ii) of Regulation O, 12 C.F.R. § 215.4(a)(ii); and
- (b) when aggregated with the Bank's other extensions of credit made to Respondent or for his tangible economic benefit, exceeded \$100,000, in violation of section 215.5(c)(4) of Regulation O, 12 C.F.R. § 215.5(c)(4).

26. On or about November 19, 1999, the outstanding balance of [REDACTED] Loan # [REDACTED] was paid in full with the proceeds of another nominee loan in the name of [REDACTED] as more fully alleged in paragraphs 88 through 93 below.

27. On or about January 22, 1999, Respondent extended or caused the Bank to extend a line of credit in the name of the [REDACTED] in the amount of \$200,000, as a business loan for the stated purpose of "business expenses."

28. Respondent further caused Bank records to falsely show the purpose of [REDACTED] Loan # [REDACTED] as "to allow some gifting and asset allocation for estate purposes."

29. On or about January 26, 1999, Respondent made a draw on [REDACTED] Loan # [REDACTED] in the amount of \$176,496.91 and used these loan proceeds to make a payment on his Loan #158352003, which paid in full the outstanding balance of that loan.

30. The proceeds of [REDACTED] Loan # [REDACTED] were used for the tangible economic benefit of Respondent. Therefore, [REDACTED] Loan # [REDACTED] is considered made to Respondent.

31. As of December 1, 1999, the outstanding balance of [REDACTED] Loan # [REDACTED] was in excess of \$176,496.91.

32. By reason of the allegations in paragraphs 27 through 31 above, Respondent violated and/or caused the Bank to violate Regulation O in that [REDACTED] Loan # [REDACTED]

(a) involved more than the normal risk of repayment and presented other unfavorable features, including the false and/or misleading statement regarding the purpose of the loan, in violation of section 215.4(a)(ii) of Regulation O, 12 C.F.R. § 215.4(a)(ii); and

(b) exceeded \$100,000, in violation of section 215.5(c)(4) of Regulation O, 12 C.F.R. § 215.5(c)(4).

**B. Financing Respondent's Personal Expenses.**

33. On or about April 22, 1999, Respondent made or caused the Bank to make an unsecured extension of credit to Respondent (Loan # 158352004) in the amount of \$325,000 to finance certain personal expenses, income tax payments and other loan payments.

34. By reason of the allegations in paragraph 33 above, Respondent violated and/or caused the Bank to violate Regulation O in that Respondent's Loan # 158352004:

- (a) was not made on substantially the same terms as those prevailing at the time for comparable transactions by the Bank with other persons not covered by Regulation O, in violation of section 215.4(a)(i) of Regulation O, 12 C.F.R. § 215.4(a)(i); and
- (b) exceeded \$100,000, in violation of section 215.5(c)(4) of Regulation O, 12 C.F.R. § 215.5(c)(4).

35. Respondent made or caused the Bank to make an extension of credit to a nominee borrower, the proceeds of which were used by Respondent to repay his Loan # 158352004, as more fully alleged in paragraphs 36 through 39 below.

36. On or about May 27, 1999, Respondent extended or caused the Bank to extend a line of credit in the name of the [REDACTED] in the amount of \$400,000, as a "business loan," for the stated purpose of "business expenses."

37. On or about May 28, 1999, Respondent made a draw on [REDACTED] Loan # [REDACTED] in the amount of \$327,484.25 and used these loan proceeds to make a payment on his Loan # 158352004, which paid in full the outstanding balance of that loan.

38. Also on May 28, 1999, Respondent drew the remainder of the [REDACTED] Loan # [REDACTED] in the amount of \$72,515.75, and deposited those proceeds in his personal demand deposit account [REDACTED]

39. The proceeds of [REDACTED] Loan # [REDACTED] were transferred to Respondent and/or used for the tangible economic benefit of Respondent. Therefore, [REDACTED] Loan # [REDACTED] is considered made to Respondent.

40. [REDACTED] Loan # [REDACTED] remained outstanding until November 12, 1999, when it was repaid with the proceeds of other nominee loans, as more fully alleged in paragraphs 61 through 76 below.

41. By reason of the allegations in paragraphs 35 through 40, Respondent violated and/or caused the Bank to violate Regulation O in that [REDACTED] Loan # [REDACTED]

- (a) involved more than the normal risk of repayment and presented other unfavorable features, including the false and/or misleading statement regarding the purpose of the loan, in violation of section 215.4(a)(ii) of Regulation O, 12 C.F.R. § 215.4(a)(ii); and
- (b) exceeded \$100,000, in violation of section 215.5(c)(4) of Regulation O, 12 C.F.R. § 215.5(c)(4).

**C. Financing Respondent's June 4, 1999, Purchase of Stock**

42. Prior to June 4, 1999, Steven L. Wilson was president and chief executive officer of the Bank, and chairman of the Bank's board of directors. Mr. Wilson also owned 15 percent of the issued and outstanding stock of Wildcat, Inc.

43. On or about June 4, 1999, Respondent acquired the stock of Wildcat, Inc., held by Steven L. Wilson for \$1,000,000.

44. Respondent improperly financed his acquisition of Mr. Wilson's stock by making or causing the Bank to make a loan to a nominee borrower and using the proceeds to partially fund the purchase, as more fully alleged in paragraphs 45 through 50 below.

45. On or about May 27, 1999, Respondent extended or caused the Bank to extend a second \$400,000 line of credit in the name of the [REDACTED] [REDACTED] again as a "business loan" for the stated purpose of "business expenses."

46. On or about May 28, 1999, Respondent made a draw on [REDACTED] Loan # [REDACTED] in the amount of \$100,000, which he transferred to DWT, Inc., Respondent's wholly-owned related interest.

47. Approximately 4 days later, on or about June 2, 1999, Respondent caused a second draw to be made on the [REDACTED] Loan # [REDACTED] in the amount of \$300,000, which he also transferred to DWT, Inc.

48. On or about June 4, 1999, Respondent used the proceeds of [REDACTED] Loan # [REDACTED] to partially fund his purchase of Steven L. Wilson's shares of Wildcat, Inc.

49. The proceeds of [REDACTED] Loan # [REDACTED] were used for the tangible economic benefit of Respondent. Therefore, [REDACTED] Loan # [REDACTED] is considered made to Respondent.

50. [REDACTED] Loan # [REDACTED] remained outstanding until November 12, 1999, when it was repaid with the proceeds of other nominee loans, as more fully alleged in paragraphs 71 through 87 below.

51. By reason of the allegation in paragraphs 42 through 49 above, Respondent violated and/or caused the Bank to violate Regulation O in that [REDACTED] Loan # [REDACTED]

- (a) involved more than the normal risk of repayment and presented other unfavorable features, including the false and/or misleading statement regarding the purpose of the loan, in violation of section 215.4(a)(ii) of Regulation O, 12 C.F.R. § 215.4(a)(ii); and
- (b) exceeded \$100,000, in violation of section 215.5(c)(4) of Regulation O, 12 C.F.R. § 215.5(c)(4).

**D. Financing the June 30, 1999, Capital Injection.**

52. On or about June 30, 1999, the Bank was again in need of a capital injection of \$1,000,000 to support the Bank's rapid asset growth and comply with capital guidelines of the Iowa Division of Finance.

53. On or about June 30, 1999, Respondent made or caused the Bank to make an extension of credit to Respondent (Loan # 158352005) in the amount of \$1,000,000, for the stated purpose of "personal expenses."

54. Respondent deposited the proceeds of Loan # 158352005 into his demand deposit account and then transferred those proceeds to Wildcat, Inc., to fund the required capital injection.

55. Respondent's Loan # 158352005 was inadequately secured in that it was collateralized only by assets previously pledged to secure other extensions of credit to Respondent, which, therefore, afforded little or no collateral protection for Loan # 158352005.

56. On or about September 10, 1999, Wildcat, Inc., obtained a \$1,000,000 extension of credit from an unrelated source, which was used to fully repay Respondent's Loan # 158352005.

57. By reason of the allegations in paragraphs 52 through 56 above, Respondent violated and/or caused the Bank to violate Regulation O in that Respondent's Loan # 158352005:

- (a) was not made on substantially the same terms as those prevailing at the time for comparable transactions by the Bank with other persons not covered by Regulation O, in violation of section 215.4(a)(i) of Regulation O, 12 C.F.R. § 215.4(a)(i);

- (b) involved more than the normal risk of repayment and presented other unfavorable features, including the false and/or misleading statement regarding the purpose of the loan, in violation of section 215.4(a)(ii) of Regulation O, 12 C.F.R. § 215.4(a)(ii); and
- (c) exceeded \$100,000, in violation of section 215.5(c)(4) of Regulation O, 12 C.F.R. § 215.5(c)(4).

**E. The FDIC November 1999 Examination.**

58. On or about November 5, 1999, FDIC examiners telephoned the Bank and informed Respondent that the FDIC would begin a "safety and soundness" examination of the Bank on Monday, November 22, 1999, and that the "asset review or 'as of date'" for the examination would be November 12, 1999.

59. Also on or about November 5, 1999, the FDIC mailed a letter to Respondent confirming the telephone call alleged above.

60. On or about November 12, 1999, Respondent made or caused the Bank to make five loans in the names of nominee borrowers and used the proceeds of those loans to repay [REDACTED] Loans [REDACTED], as more fully alleged in paragraphs 61 through 87 below.

**a. The [REDACTED] Loan.**

61. On or about November 8, 1999, Respondent made or caused the Bank to make an extension of credit in the name of [REDACTED] in the amount of \$150,174.64, for the stated purpose of purchasing equipment.

Exemption 4

62. On or about November 12, 1999, Respondent used the proceeds of [REDACTED] Loan # [REDACTED] to make a partial payment in the amount of \$150,174.64 on [REDACTED] Loan # [REDACTED]

63. As of December 1, 1999, the outstanding balance of [REDACTED] Loan # [REDACTED] was in excess of \$150,174.64.

64. The proceeds of [REDACTED] Loan # [REDACTED] were used to repay a prior nominee loan made for Respondent's benefit and, therefore, were used for the tangible economic benefit of Respondent. Therefore, [REDACTED] Loan # [REDACTED] is considered made to Respondent.

65. By reason of the allegations in paragraphs 61 through 64 above, Respondent violated and/or caused the Bank to violate Regulation O in that [REDACTED] Loan # [REDACTED]

- (a) involved more than the normal risk of repayment and presented other unfavorable features, including the false and/or misleading statement regarding the purpose of the loan, in violation of section 215.4(a)(ii) of Regulation O, 12 C.F.R. § 215.4(a)(ii); and
- (b) exceeded \$100,000, in violation of section 215.5(c)(4) of Regulation O, 12 C.F.R. § 215.5(c)(4).

b. The [REDACTED] Loan.

65. On or about November 8, 1999, Respondent made or caused the Bank to make an extension of credit in the name of [REDACTED] in the amount of \$131,500, with no stated purpose.

66. [REDACTED]

Exemption 4  
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67. On or about November 12, 1999, Respondent used the proceeds of [REDACTED] Loan # [REDACTED] to make a partial payment in the amount of \$131,500 on [REDACTED] Loan # [REDACTED].

68. As of December 1, 1999, the outstanding balance of [REDACTED] Loan # [REDACTED] was in excess of \$131,500.

69. The proceeds of [REDACTED] Loan # [REDACTED] were used to repay a prior nominee loan made for Respondent's benefit and, therefore, were used for the tangible economic benefit of Respondent. Therefore, [REDACTED] Loan # [REDACTED] is considered made to Respondent.

70. By reason of the allegations above paragraphs 65 through 69 above, Respondent violated and/or caused the Bank to violate Regulation O in that [REDACTED] Loan # [REDACTED]

- (a) involved more than the normal risk of repayment and presented other unfavorable features, including the lack of any documented record of the purpose of the loan, in violation of section 215.4(a)(ii) of Regulation O, 12 C.F.R. § 215.4(a)(ii); and
- (b) exceeded \$100,000, in violation of section 215.5(c)(4) of Regulation O, 12 C.F.R. § 215.5(c)(4).

c. The [REDACTED] Loan.

71. On or about November 8, 1999, Respondent extended or caused the Bank to extend a line of credit in the name of [REDACTED] in the amount of \$250,000.

72. On or about November 12, 1999, Respondent drew \$249,000 on [REDACTED] and used \$133,171.92 of the loan proceeds to make a payment on [REDACTED] Loan # [REDACTED] which paid in full the outstanding balance of that loan.

73. Also, on or about November 12, 1999, Respondent used \$115,828.08 of the [REDACTED] loan proceeds (the remainder of the \$249,000 drawn on [REDACTED] Loan # [REDACTED] to make a payment on [REDACTED] Loan # [REDACTED]

74. As of December 1, 1999, the outstanding balance of [REDACTED] Loan # [REDACTED] was in excess of \$249,000.

75. The proceeds of [REDACTED] Loan # [REDACTED] were used to repay a prior nominee loan made for Respondent's benefit and, therefore, were used for the tangible economic benefit of Respondent. Therefore, [REDACTED] Loan # [REDACTED] is considered made to Respondent.

76. By reason of the allegations in paragraphs 71 through 75 above, Respondent violated and/or caused the Bank to violate Regulation O in that [REDACTED] Loan # [REDACTED]

(a) involved more than normal risk of repayment and presented other unfavorable features, including the lack of any documented record of the purpose of the loan, in violation of section 215.4(a)(ii) of Regulation O, 12 C.F.R. § 215.4(a)(ii); and

(b) exceeded \$100,000, in violation of section 215.5(c)(4) of Regulation O, 12 C.F.R. § 215.5(c)(4).

d. The [REDACTED] Loan.

77. On or about November 10, 1999, Respondent made or caused the Bank to make an extension of credit in the name of [REDACTED] in the amount of \$248,700, for the stated purpose of serving as a personal "bridge loan," pending closing of sales on the borrower's home and commercial building.

78. On or about November 12, 1999, Respondent used the entire proceeds of [REDACTED] Loan # [REDACTED] to make a payment in the amount of \$248,700 on [REDACTED] Loan # [REDACTED]

79. As of December 1, 1999, the outstanding balance of [REDACTED] Loan # [REDACTED] was in excess of \$248,700.

80. The proceeds of [REDACTED] Loan # [REDACTED] were used to repay a prior nominee loan for Respondent's benefit and, therefore, were used for the tangible economic benefit of Respondent. Therefore, [REDACTED] Loan # [REDACTED] is considered made to Respondent.

81. By reason of the allegations in paragraphs 77 through 80 above, Respondent violated and/or caused the Bank to violate Regulation O in that [REDACTED] Loan # [REDACTED]

- (a) involved more than normal risk of repayment and presented other unfavorable features, including the false and/or misleading statement regarding the purpose of the loan, in violation of section 215.4(a)(ii) of Regulation O, 12. C.F.R. § 215.4(a)(ii); and
- (b) exceeded \$100,000 in violation of section 215.5(c)(4) of Regulation O, 12 C.F.R. § 215.5(c)(4).

c. The [REDACTED] Loan.

82. On or about June 25, 1999, the Bank approved a [REDACTED] line of credit for [REDACTED] [REDACTED] for the stated purpose of providing the borrower with funds [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

83. On or about November 12, 1999, Respondent made a draw on [REDACTED] Loan # [REDACTED] in the amount \$50,000, which he transferred to a demand deposit account in the name of the borrower.

84. On or about November 12, 1999, Respondent drew \$50,000 from the [REDACTED] demand deposit account to make a payment on [REDACTED] Loan # [REDACTED].

85. [REDACTED] Loan # [REDACTED] remained outstanding until it was repaid with the proceeds of an extension of credit to [REDACTED] 4 days later on November 26, 1999, as more fully alleged in paragraphs 88 and 90 below.

86. The proceeds of [REDACTED] Loan # [REDACTED] were used to repay a prior nominee loan for Respondent's benefit and, therefore, were used for the tangible economic benefit of Respondent. Therefore, [REDACTED] Loan # [REDACTED] is considered made to Respondent.

87. By reason of the allegations contained in paragraphs 82 through 86 above, Respondent violated and/or caused the Bank to violate Regulation O in that [REDACTED] Loan # [REDACTED]

- (a) involved more than normal risk of repayment and presented other unfavorable features, including the lack of any documented record of the purpose of the loan, in violation of section 215.4(a)(ii) of Regulation O, 12 C.F.R. § 215.4(a)(ii); and
- (b) when aggregated with the Bank's other extensions of credit made to Respondent or for his tangible economic benefit, exceeded \$100,000 in violation of section 215.5(c)(4) of Regulation O, 12 C.F.R. § 215.5(c)(4).

**F. Respondent's Additional Efforts of Concealment.**

88. On or about November 19, 1999, Respondent extended or caused the Bank to extend a line of credit in the name of [REDACTED] in an amount which is presently undetermined because Bank records are missing.

89. On or about November 19, 1999, Respondent used part of the proceeds of [REDACTED] Loan # [REDACTED] to make a payment in the amount of \$106,482.19 on [REDACTED] Loan # [REDACTED]

90. On or about November 26, 1999, Respondent used part of the proceeds of [REDACTED] Loan # [REDACTED] to make a payment in the amount of \$50,148.63 on [REDACTED] Loan # [REDACTED], which paid in full the outstanding balance of that loan.

91. As of December 1, 1999, no payments have been made on [REDACTED] Loan # [REDACTED] and the outstanding balance as of that date was \$449,432.07.

92. As part of the currently ongoing FDIC examination of the Bank, which began on November 22, 1999, examiners have diligently searched the Bank and made the appropriate inquiries and determined that the Bank does not have a copy of any promissory note representing [REDACTED] Loan # [REDACTED]

93. At least \$156,630.82 of the proceeds of [REDACTED] Loan # [REDACTED] were used to repay prior nominee loans for Respondent's benefit and, therefore, were used for the tangible economic benefit of Respondent. Therefore, this portion of [REDACTED] Loan # [REDACTED] is considered made to Respondent.

94. By reason of the allegations in paragraphs 88 through 93, Respondent violated and/or caused the Bank to violate Regulation O in that [REDACTED] Loan # [REDACTED]

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- (a) involved more than normal risk of repayment and presented other unfavorable features, including the lack of any documented record of the purpose of the loan, in violation of section 215.4(a)(ii) of Regulation O, 12 C.F.R. § 215.4(a)(ii); and
- (b) when aggregated with the Bank's other extensions of credit made to Respondent or for his tangible economic benefit, exceeded \$100,000, in violation of section 215.5(c)(4) of Regulation O, 12 C.F.R. § 215.5(c)(4).

95. As part of the currently ongoing FDIC examination of the Bank, after diligent search and due inquiry, examiners have determined that the integrity of the Bank's records has been compromised in that, among other things:

- (a) the Bank's "proof tapes" for November 12 and November 19, 1999, which would disclose additional information about a number of the transactions alleged above, are missing or have otherwise not been made available to examiners;
- (b) the loan file for [REDACTED] Loan # [REDACTED] is missing or has otherwise not been made available to examiners; and
- (c) the promissory note for [REDACTED] Loan # [REDACTED] is missing or has otherwise not been made available to examiners.

96. As part of the currently ongoing FDIC examination of the Bank, Respondent signed the Officer's Questionnaire dated December 20, 1999, and thereby certified that the answer "None" to the following Question #3 was true and correct to the best of his knowledge and belief:

3. List all extensions of credit made for the accommodation or direct benefit of anyone other than those whose names appear either on the note or on other related

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**documents. Only include extensions of credit made since the previous FDIC examination. Indicate if any executive officer, principal shareholder, director, or their related interest (per Federal Reserve Board Regulation O definitions) is or was involved.**

97. Respondent knew or should have known that the answer "None" to Question #3 was false when he signed the Officer's Questionnaire.

98. As part of the currently ongoing examination of the Bank, FDIC examiners expressly asked Respondent if he knew the source of repayment of [REDACTED] Loans # [REDACTED] and # [REDACTED], to which he responded "sales of assets."

99. Respondent knew or should have known that his response was false.

100. The FDIC has reasonable cause to believe that Respondent has participated in the conduct of the affairs of the Bank.

101. The FDIC has reasonable cause to believe that, by means of Respondent's acts, omissions and/or practices described in the foregoing paragraphs, Respondent has violated and/or caused the Bank to violate laws, rules and regulations as recited herein.

102. The FDIC has reasonable cause to believe that, as a result of Respondent's acts, omissions and/or practices described in the foregoing paragraphs, Respondent has engaged and/or participated in unsafe or unsound banking practices in connection with the Bank.

103. The FDIC has reasonable cause to believe that, as a result of Respondent's acts, omissions and/or practices described in the foregoing paragraphs, Respondent has breached his fiduciary duties as an officer and director of the Bank.

104. The FDIC has reasonable cause to believe that, as a result of the violations, practices and breaches by Respondent, as specified above, Respondent has received financial gain or other benefit, in that, inter alia, Respondent has received the use of and tangible

economic benefit from the proceeds of loans and extensions of credit made by the Bank to nominee borrowers.

105. The FDIC has reasonable cause to believe that, as a result of the violations, practices and breaches by Respondent, as specified above, the Bank has suffered, or will probably suffer financial loss or other damage, and the interests of the Bank's depositors have been or could be prejudiced in that (1) the Bank is exposed to increased risk of loss with respect to the loans and extensions of credit made by the Bank to nominee borrowers, and (2) the Bank's books and records do not accurately reflect the true financial condition of the Bank, including, inter alia, the Bank's capital structure.

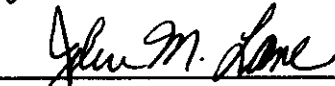
106. The FDIC has reasonable cause to believe that Respondent knowingly and intentionally engaged in the violations, practices and/or breaches described herein and concealed or attempted to conceal such misconduct from the Bank's board of directors and Federal and State banking agencies, and that such misconduct involves personal dishonesty and demonstrates Respondent's willful or continuing disregard for the safety or soundness of the Bank and his unfitness to serve as an officer, director or institution-affiliated party of the Bank.

107. The FDIC has reasonable cause to believe that it is necessary for the protection of the Bank and the interests of the depositors of the Bank to suspend Respondent from office and prohibit him from further participation in any manner in the conduct of the affairs of the Bank, pending completion of the administrative proceedings instituted pursuant to the foregoing NOTICE.

WHEREFORE, the FDIC finds that, for the protection of the Bank and the interests of the Bank's depositors, it is necessary to issue herewith an ORDER OF SUSPENSION FROM OFFICE against Respondent, pursuant to section 8(e)(3) of the Act, 12 U.S.C. § 1818(e)(3).

Pursuant to delegated authority.

Dated at Washington, D.C., this 5<sup>th</sup> day of January, 2000.

  
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John M. Lane  
Associate Director  
Division of Supervision

(SEAL)